

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

REC'D 08 APR '13 10:40 USDC-ORP

UNITED STATES OF AMERICA

Case No. 3:13-cr-00125-HA

v.

INFORMATION

YUSAF JAWED,

Defendant.

18 U.S.C. § 2 (Aiding and Abetting)  
18 U.S.C. § 1341 (Mail Fraud)  
18 U.S.C. § 1343 (Wire Fraud)

FORFEITURE ALLEGATION

THE UNITED STATES ATTORNEY CHARGES:

I. Introduction and Overview

1. From approximately February 2008 through September 2009, defendant YUSAF JAWED (JAWED), in the district of Oregon and elsewhere, raised approximately \$6.4 million from over 10 investors in a hedge fund he controlled, called the Alpha Qualified Fund.

2. A hedge fund as promoted by JAWED is an investment device designed to attract investors by promising the opportunity for investment growth and investment security through a diverse style of investments, which would include but not be limited to public and private securities, such as domestic and foreign stocks and bonds, foreign currencies, commodities such as gold and nickel, and real estate.

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## **II. Defendant and Related Entities**

3. **JAWED**, an Oregon resident, established several limited liability companies which he used to manage and market various hedge funds (the Alpha funds) which he created and controlled.

4. Grifphon Asset Management, LLC (GAM), is an Oregon limited liability company formed in October 2000. GAM is the general partner and investment advisor to the Alpha funds. **JAWED** is the only officer, member, and owner of GAM.

5. Grifphon Holdings, LLC is a Delaware limited liability company formed on or around August 30, 2004. Grifphon Holdings is the general partner and investment advisor to the Alpha funds. **JAWED** is the sole officer, member, and owner of this entity.

6. Grifphon Alpha Qualified Fund is a Delaware limited partnerships established and controlled by **JAWED**, as were all the other Alpha funds.

## **III. The Manner and Means of the Scheme and Artifice**

7. **JAWED**, directly and through other entities and persons under his employ, supervision and control, and acting in concert with them, engaged in the material scheme and artifice to defraud and to obtain money and property through materially false and fraudulent pretenses, representations and promises and through material omissions of fact concerning the Grifphon investment program in Alpha funds, generally and specifically in the Alpha Qualified Fund. Among the materially false and fraudulent pretenses, representations and promises were:

- a. **All of the investors' money would be invested in common stocks of domestic and foreign issuers, and other types of public and private investment vehicles and securities, including debt, commodities such as gold, foreign currencies, real estate and biotech ventures. In truth and fact, very little of the money was**

invested, particularly during the period 2008-2009, and specifically with respect to the Alpha Qualified Fund. Most of the money was diverted to unrelated purposes, including the payment of finders' fees and commissions, repayment of loans, payment of office expenses and general overhead, and the payment to prior investors.

- b. **The majority of partners' (investors) assets were kept in highly reputable institutions such as Lehman Bros. and UBS.** In truth and fact, at least as far back as 2008, most of the money was never placed in these institutions for investment purposes and instead was diverted by JAWED into Grifphon related entities controlled by JAWED or paid out directly to third parties.
- c. **Grifphon investment strategies delivered returns for the period 2002-2008 ranging from 12.8% to 132.5%.** In truth and fact, at least as far back as 2008, the returns never approached these amounts; much of the money was either lost or never invested; and false return numbers were created by JAWED or those acting under his direction and supervision and disseminated to investors.
- d. **The Alpha Qualified Fund would be a short-term fund investment which had already been arranged to be sold to an overseas buyer.** In truth and fact, no such qualified buyer had been lined up and the fund was never purchased.
- e. **Alpha Qualified investors would immediately get a 10% investment bump because the fund was being bought out within 2 years.** In truth and fact, no such 10% return was actually enjoyed by the Alpha Qualified investors and the fund was never purchased.

- f. The fee structure was limited to a 2% management fee and a 20% performance fee. In truth and fact, the performance returns were falsified and brokers and sales people were paid commissions up to 10% of the amount of money that they brought in from investors.
8. It was further part of the scheme and artifice that **JAWED**, directly and through entities and persons under his employ, supervision and control, and acting in concert with them, solicited investors and investments through material omissions of fact, including:
- a. Brokers and sales people were paid commissions and finders' fees as high as 10% of the money invested and such commissions and finder's fees came directly from the investors' money and not from performance returns.
  - b. While **JAWED** through his Grifphon offices gave the appearance that the investment enterprise was successful and flourishing, as far back as 2004, **JAWED** was sending out internal e-mails stating that the Grifphon enterprise was in dire financial straits and needed fresh infusions of investor funds to survive.
  - c. **JAWED** had a prior regulatory violation involving fraudulent conduct which resulted in findings by the New York Stock Exchange on April 1, 2002 that **JAWED** was involved in unauthorized trading in a customer's account and had attempted to cover up the trading activity.
9. It was further part of the scheme and artifice that false marketing materials were created by **JAWED** directly and through entities and persons acting under his employ, supervision and control. Such materials falsely depicted investment strategies and objectives and historical returns that were supposedly realized and enjoyed by the Alpha funds. These

marketing materials were distributed in person at meetings, by US mail, and by e-mail in interstate commerce.

10. It was further part of the scheme and artifice that **JAWED**, to cover up and conceal the diversion and misappropriation of investor money and the failure to realize the returns that were being advertised in the marketing materials, listed false assets in the form of bonds which were fraudulently listed in the books and records as assets in several hedge funds, including Alpha Qualified.

11. It was further part of the scheme and artifice that **JAWED** employed sales persons and "finders" in Oregon and in other states to solicit investors using the false marketing materials and other false information that was developed directly and indirectly by **JAWED**.

12. It was further part of the scheme and artifice that **JAWED**, directly and through entities and persons working with and for him, distributed quarterly investment statements and annual income tax statements (known as partnership K-1s) which falsely depicted substantial investment returns.

13. It was further part of the scheme and artifice that **JAWED** advertised the fact that accountants were employed to review the books and records for accuracy when in fact the accountants could not verify the books and records when **JAWED** and those acting for and under him failed to respond to repeated requests for information which would enable the accountants to evaluate the accuracy of the books and records.

14. It was further part of the scheme and artifice that **JAWED**, through the entities he controlled, hired or otherwise used attorneys to lend an air of legitimacy to his claims that there were overseas buyers for the Alpha funds, including the Alpha Qualified Fund, when such lawyers were in fact instrumental in **JAWED**'s scheme to deceive investors into believing that

the Alpha funds would be purchased and that investors would receive at sale both their invested money and the returns that had been falsely represented.

15. It was further part of the scheme and artifice that from 2009 to present, **JAWED** and those acting with and under him, including the attorneys described in paragraph 14, attempted to lull investors into believing that a massive buyout of funds was imminent and that investors would be fully redeemed including the false profits that were never realized. Such lulling occurred at meetings, and through the use of the phone, e-mail and the US mail.

**Count 1 - 5**

**(Mail Fraud - 18 U.S.C. §§ 2 and 1341)**

16. **Scheme and Artifice:** The Information incorporates paragraphs 1-15 as if set forth fully herein and re-alleges the material scheme and artifice to defraud and to obtain money and property from another person by means of materially false and fraudulent pretenses, representations and promises, and material omissions of fact, as described in those paragraphs.

17. On or about the dates listed below, in the District of Oregon and elsewhere, defendant **JAWED**, having knowingly devised and intended to devise the aforementioned material scheme and artifice to defraud and to obtain money and property from another person

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by means of materially false and fraudulent pretenses, representations and promises, and material omissions of fact, for the purpose of executing and attempting to execute the material scheme and artifice, did knowingly cause to be delivered by the United States Postal Service or commercial interstate carrier to the recipients and at the locations shown below, each use of mails being a separate count of this Information:

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Count	Date	From	To	Mailing
1	4/24/2008	Portland, OR	San Francisco, CA	P.C. Grifphon Letter re: Management Fee and Incentive Allocation Waivers
2	4/28/2008	San Francisco, CA	Portland, OR	P.C. \$250,000.00 check to Alpha Qualified Fund, LP
3	5/23/2008	Portland, OR	Indian Wells, CA	E. K. April 30, 2008 Alpha Qualified Fund LP Schedule of Partner's Capital Account
4	5/28/2008	San Francisco, CA	Portland, OR	P.C. \$250,000.00 check to Alpha Qualified Fund
5	6/12/2009	Salt Lake City, UT	Portland, OR	R.W. \$50,000 check to Alpha Qualified Fund

All in violation of Title 18, United States Code, Sections 2 and 1341.

#### Counts 6-17

(Wire Fraud - 18 U.S.C. §§ 2 and 1343)

18. **Scheme and Artifice:** The Information incorporates paragraphs 1-15 as if set forth fully herein and re-alleges the material scheme and artifice to defraud and to obtain money and property from another person by means of materially false and fraudulent pretenses, representations and promises, and material omissions of fact, as described in those paragraphs.

19. On or about the dates listed below, in the District of Oregon and elsewhere, defendant **JAWED**, having knowingly devised and intended to devise the aforementioned material scheme and artifice to defraud and to obtain money and property from another person by means of materially false and fraudulent pretenses, representations and promises, and material

omissions of fact, for the purpose of executing and attempting to execute the material scheme and artifice, did knowingly cause to be transmitted by interstate and foreign commerce by means of wire communications, signals, and sounds to the recipients and at the locations shown below, each interstate communication or communication in foreign commerce being a separate count in the Information:

Count	Date	Wire Communication	Origin	Destination
6	4/2/2008	Email from Yusaf Jawed with Redacted K-1s	Portland, OR	P.C., San Francisco, CA
7	4/4/2008	\$470,000.00 wire transfer	Sterling Trust, R.W., Waco, TX	U.S. Bank, N.A., Portland, OR
8	4/4/2008	\$1,445,066.05 wire transfer	Sterling Trust, R.W., Waco, TX	U.S. Bank, N.A., Portland, OR
9	4/14/2008	\$210,500.00 wire transfer	Sterling Trust, E.K., Waco, TX	U.S. Bank, N.A., Portland, OR
10	5/30/2008	Email from Yusaf Jawed re: Money Under Management	Portland, OR	P.C., San Francisco, CA
11	6/12/2008	\$300,000.00 wire transfer	National Financial Services Corp., M.D., Boston, MA	U.S. Bank, N.A., Portland, OR
12	7/16/2008	Facsimile re: E.K. IRA	Portland, OR	Sterling Trust, Waco, TX
13	7/17/2008	\$29,900.00 wire transfer	Sterling Trust, E.K., Waco, TX	U.S. Bank, N.A., Portland, OR
14	6/15/2009	\$435,000.00 wire transfer	Sterling Trust, D.F., Waco, TX	U.S. Bank, N.A., Portland, OR

Count	Date	Wire Communication	Origin	Destination
15	7/1/2009	\$100,000 wire transfer	Pacific Western Bank, D.C.A., Indian Wells, CA	U.S. Bank, N.A., Portland, OR
16	8/24/2009	Email from Yusaf Jawed with Merchant Securities & Trust letters attached	Portland, OR	C.M., Lake Oswego, OR (via Yahoo!, Inc. server outside of Oregon)
17	8/28/2009	Email from Yusaf Jawed re: (b) Where is the money for Alpha I?	Portland, OR	C.M., Lake Oswego, OR (via Yahoo!, Inc. server outside of Oregon)

All in violation of Title 18 United States Code, Sections 2 and 1343.

#### FORFEITURE ALLEGATION

Upon conviction of one or more offenses alleged in Counts 1-17 of this Information, defendant **YUSAF JAWED** shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(a)(C) and 28 U.S.C. § 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of violations of Mail Fraud (18 U.S.C. 1341) or Wire Fraud (18 U.S.C. § 1343), including but not limited to:

#### Money Judgment

A sum of money equal to \$ 6,400,000.00 in United States currency, representing the amount of proceeds obtained as a result of mail and wire fraud.

If any of the above- described forfeitable property, as a result of any act or omission of **JAWED** cannot be found:

- a. Cannot be located upon exercise of due diligence;


- b. Has been transferred or sold to, or deposited with a third party;
- c. Has been placed beyond the jurisdiction of the court;
- d. Has been substantially diminished in value; or
- e. Has been commingled with other property which cannot be divided without difficulty;

It is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of **JAWED** up to the value of the forfeitable property described above.

Dated this 8<sup>th</sup> day of April, 2013.

Presented by:

S. AMANDA MARSHALL, OSB #95437  
United States Attorney



ALLAN M. GARTEN, OSB # 812360  
Assistant United States Attorney  
Senior Litigation Counsel